

ANDREW SALES,)
)
Plaintiff,)
)
v.) No. 4:08CV1120 CDP
)
JOHN URANKAR, et al.,)
)
Defendants.)

This matter is before the Court on plaintiff's *ex parte* motion for a temporary restraining order (TRO). For the reasons stated below, the motion will be denied.

Plaintiff submitted a motion for TRO to the Court without giving notice to the adverse party. Under Fed. R. Civ. P. 65(b):

Plaintiff has not submitted the requisite affidavit or verified complaint required under the Rule. Nor has plaintiff certified in writing the efforts made to give notice


and the reasons why notice should not be required. As a result, the motion will be denied.

Additionally, to determine whether preliminary injunctive relief is warranted, the Court must balance the threat of irreparable harm to movant, the potential harm to the nonmoving party should an injunction issue, the likelihood of success on the merits, and the public interest. Dataphase Sys. V. CL Sys., 640 F.2d 109, 113-14 (8th Cir. 1981) (en banc). Plaintiff complains that defendants are in the process of repossessing his truck. These allegations do not show that the harm plaintiff may suffer is irreparable. Should plaintiff's truck be wrongfully repossessed, plaintiff may sue for money damages. As a result, plaintiff is not entitled to a temporary restraining order.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's *ex parte* motion for TRO [#5] is **DENIED**.

Dated this 1st day of August, 2008.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE